

Message Text

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ACTION PM-03

INFO OCT-01 ARA-06 ISO-00 L-02 CIAE-00 INR-05 NSAE-00

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FM AMEMBASSY MONTEVIDEO

TO SECSTATE WASHDC PRIORITY 7679

INFO USCINCSO

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E.O. 11652: N/A

TAGS: MASS, UY

SUBJ: NEW MAP ELIGIBILITY REQUIREMENT

REF: STATE 094271

USCINCSO ALSO FOR POLAD

1. SUMMARY: ALTHOUGH INDICATING ACCEPTANCE OF U.S. IMPOSED MAP ELIGIBILITY REQUIREMENT, FONOFF INFORMALLY HAS REQUESTED CHANGE OF WORDING WHICH WOULD: (1) ELIMINATE REFERENCE TO MATERIAL "SUPPLIED HERETOFORE"; AND (2) DESCRIBE EXCHANGE OF NOTES AS CONSTITUTING AN ADJUSTMENT UNDER 1952 MUTUAL DEFENSE ASSISTANCE AGREEMENT RATHER THAN A NEW AGREEMENT. URUGUAYAN MILITARY HAS ACCEPTED AND IS IMPLEMENTING U.S. REQUIREMENT ALREADY AND FONOFF ASSURES US THIS WILL CONTINUE. HOWEVER, WORD CHANGES BEING REQUESTED IN ORDER TO SAVE FACE AND TO AVOID SEEKING LEGISLATIVE (COUNCIL OF STATE) APPROVAL. FONOFF, BELIEVING ITSELF TO BE IN DIFFICULT NEGOTIATING POSITION, DOES NOT YET WANT TO RESPOND FORMALLY TO U.S. NOTE OF MAY. INSTEAD, IT HAS PASSED DRAFT TEXT OF ITS PROPOSED NOTE OF REPLY (QUOTED BELOW) IN AN EFFORT TO REACH AMICABLE AGREEMENT BEFORE PROCEEDING ON OFFICIAL BASIS.

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WE WOULD LIKE TO BE AS FORTHCOMING AS POSSIBLE AND

SEEK INSTRUCTIONS.

2. A HIGH LEVEL FONOFF OFFICIAL CALLED IN EMBOFF ON NOVEMBER 12 TO DISCUSS EMBASSY NOTE OF MAY 10, 1974 (BASED ON REFTEL) CONCERNING PAYMENT TO U.S. OF NET PROCEEDS OF SALE OF MAP DEFENSE ARTICLES DISPOSED OF BY GOU. FONOFF OFFICIAL SAID (AS WE KNEW) MINDEF AND ARMED FORCES HAD AGREED TO U.S. TERMS, BUT THAT FOREIGN MINISTRY COULD NOT, IN GOOD CONSCIENCE, ACCEPT NOTE AS WRITTEN. RATHER THAN CALL IN AMBASSADOR HE HAD DECIDED TO RAISE ISSUES AT WORKING LEVEL AND DISCUSS THEM INFORMALLY ON BASIS OF FRIENDSHIP AND MUTUAL RESPECT.

3. BASICALLY, FONOFF HAS TWO PROBLEMS WITH U.S. NOTE. THE FIRST CONCERNS THE RETROACTIVITY OF THE REQUIREMENT IN THAT IT APPLIES TO ARTICLES "RECEIVED HERETOFORE." FONOFF, FULLY AWARE OF OUR PROBLEM, ASSURES US THAT GOU WILL LIVE UP TO REQUIREMENT (ARMED FORCES HAVE INSTITUTED REQUIRED PROCEDURES ALREADY) BUT THAT IT DOES NOT WANT RETROACTIVE ASPECTS IN NOTE. OFFICIAL EXPLAINED TO EMBOFF THAT ACCEPTANCE OF UNILATERAL U.S. DICTATION OF NEW TERMS, APPLIED RETROACTIVELY, COULD CAUSE MINISTRY SERIOUS EMBARRASSMENT FROM THOSE WHO ARE EVER SENSITIVE TO LARGE POWERS' MOVES WHICH CAN BE TAKEN AS "LESIONANDO NUESTRA SOBERANIA."

4. OTHER GOU PROBLEM WITH U.S. NOTE IS ITS FINAL PARAGRAPH WHICH STATES THAT THE EXCHANGE OF NOTES WILL CONSTITUTE AN AGREEMENT. FONOFF WISHES TO CONCLUDE IN SIMILAR TERMS BUT INCLUDING ALSO A STATEMENT THAT WHAT IS DONE HERE IS AN ADJUSTMENT (ARREGLO) MADE WITHIN THE TERMS OF THE MILITARY ASSISTANCE AGREEMENT OF 1952. FONOFF DOES NOT WANT TO SUBMIT NOTES TO COUNCIL OF STATE FOR APPROVAL. IF THEY CONSTITUTE A NEW AGREEMENT THIS WOULD BE NECESSARY, BUT AS AN ADJUSTMENT PROVIDED FOR IN THE 1952 AGREEMENT IT WOULD NOT BE NECESSARY.

5. THERE FOLLOWS THE TEXT OF THE OPERATIVE PARAGRAPHS WHICH THE FONOFF PROPOSES TO SEND US (BUT WHICH DOES NOT YET EXIST OFFICIALLY):
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"EL GOBIERNO DEL URUGUAY ESTA DE ACUERDO EN QUE LOS PRODUCTOS NETOS DE VENTAS DE CUALESQUIERA ARMAS, SISTEMA DE ARMAS, MUNICIONES, AVIONES, BOTES MILITARES, BARCOS MILITARES U OTROS ARTICULOS DE DEFENSA, INCLUYENDO DESECHOS DE CUALESQUIERA DE ESTOS ARTICULOS, QUE VAYAN A SER RECIBIDOS CONFORME A TRAMITES PENDIENTES O QUE SE RECIBAN DE AHORA EN

ADELANTE POR EL GOBIERNO DEL URUGUAY BAJO EL PROGRAMA DE ASISTENCIA MILITAR DEL GOBIERNO DE ESTADOS UNIDOS, SERAN EMBOLSADOS A ESTE, QUE LOS DESTINARA A ATENDER SUS COSTOS OFICIALES PAGADEROS EN MONEDA URUGUAYA, INCLUYENDO LOS COSTOS RELATIVOS AL FINANCIAMIENTO DE ACTIVIDADES DE INTERCAMBIO EDUCATIVO Y CULTURAL INTERNACIONAL EN LAS QUE PARTICIPE EL GOBIERNO DEL URUGUAY

"ESTE ARREGLO SE CONCIERTA DENTRO DEL MARCO DEL CONVENIO DE ASISTENCIA MILITAR CELEBRADO ENTRE AMBOS GOBIERNOS, SUSCRITO EN MONTEVIDEO EL 30 DE JULIO DE 1952, QUEDANDO ENTENDIDO, DE CONFORMIDAD AL MISMO, QUE NO AFECTA NINGUN ACUERDO ANTERIOR ENTRE EL GOBIERNO DEL URUGUAY Y EL GOBIERNO DE ESTADOS UNIDOS RELATIVO A LA DEVOLUCION POR PARTE DE AQUEL A ESTE DE CUALESQUIERA ARTICULOS DE DEFENSA CONADOS POR EL GOBIERNO DE ESTADOS UNIDOS CUANDO TALES ARTICULOS DEJEN DE SER NECESARIOS PARA LOS FINES A LOS QUE ORIGINARIAMENTE SE DESTINARON, SALVO QUE EL GOBIERNO DE ESTADOS UNIDOS CONSIENTA EN OTRA COSA.

"ESTA RESPUESTA A LA NOTA NO. 147 DE LA EMBAJADA DE ESTADOS UNIDOS EXPRESEANDO LA CONFORMIDAD DEL GOBIERNO DEL URUGUAY, CONSTITUYE, JUNTO CON DICHA NOTA, UN ACUERDO ENTRE NUESTROS DOS GOBIERNOS SOBRE ESTA MATERIA, CON VIGENCIA A PARTIR DEL 1 DE JULIO (SIC) DE 1974."

6. THE EMBASSY CAN SEE NO PROBLEM WITH DESCRIBING THE EXCHANGE OF NOTES AS AN ARRANGEMENT MADE UNDER AN EXISTING AGREEMENT RATHER THAN AS A NEW AGREEMENT. CONFIRMATION OF THIS VIEW IS REQUESTED.

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7. WE HOPE SOME ACCOMMODATION MAY BE REACHED AS TO WORDING. FIRST, THE GOU (AND PRESUMABLY OTHER MAP RECIPIENTS) HAS ACCEPTED A SERIES OF UNILATERALLY IMPOSED IRRITANTS (SEE MVD 3200). SECOND, OUR REQUIREMENT IS BEING MET DESPITE WORDING. THIRD, THE GOU, OVER THE YEARS, HAS DISPOSED OF VIRTUALLY NOTHING OTHER THAN SCRAP. FOURTH, THE LEGISLATION, AS QUOTED IN PARA 2, REFTTEL, IS NOT CLEAR AS TO WHETHER IT APPLIES TO ITEMS RECEIVED HERETOFORE AND HEREAFTER. FIFTH, UNDER THE TERMS OF THE "MUTUAL DEFENSE ASSISTANCE: DISPOSITION OF EQUIPMENT OF MATERIALS" AGREEMENT OF 1955, SALVAGE OR SCRAP NOT ACCEPTED BY THE USG WILL BE USED TO SUPPORT THE DEFENSE EFFORT OF URUGUAY... THE GOU IS AWARE OF THAT PROVISION BUT IS NOT PROTESTING OUR UNILATERAL CHANGE OR THE LOSS OF INCOME. AS STATED ABOVE,

THE GOU IS CONCERNED ABOUT THE PR ASPECTS AND IS TRYING
TO SALVAGE SOME SEMBLANCE OF DIGNITY. FINALLY, SHOULD THE
GOU RENEGE ON ITS WORD WE COULD ALWAYS APPLY SECTION 505(A) (4)
OF THE FAA AND REQUIRE THE RETURN OF ARTICLES NO LONGER NEEDED.

8. THE FONOFF REQUEST SEEMS REASONABLE. WE HOPE WE CAN
BE FORTHCOMING WITH THESE PEOPLE FROM WHOM WE SEEK
SUPPORT ON A WIDE RANGE OF OTHER MATTERS OF GREATER
IMPORTANCE TO US. INSTRUCTIONS REQUESTED.

9. GDS
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Message Attributes

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